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PCT LEGAL ADMINISTRATION

In re Application of: CSAKY, Karl, G., et al. :  
U.S. Patent No.: 8039585 :  
U.S. Application No.: 10/588,884 :  
PCT No.: PCT/US2004/004142 :  
International Filing Date: 12 February 2004 :  
Priority Date: 12 February 2004 :  
Attorney's Docket No.: NIHA 0383 :  
For: THERAPEUTIC ADMINISTRATION :  
OF THE SCRAMBLED ANTI- :  
ANGIOGENIC PEPTIDE C16Y :

DECISION ON PETITION UNDER  
37 CFR 1.181

This decision is issued in response to the "Petition Under §§ 1.181 and 1.705 To Accord Filing Date Incorrectly Entered And To Recalculate Patent Term Adjustment" filed 19 December 2011. No petition fee is required.

**BACKGROUND**

On 12 February 2004, applicants filed international application PCT/US2004/004142. The international application did not claim an earlier priority date, and it designated the United States. The deadline for submitting the basic national fee was thirty months from the priority date, i.e., 12 August 2006.

On 09 August 2006, applicants filed a Transmittal Letter requesting entry into the U.S. national stage accompanied by, among other materials, payment of the basic national fee and an executed declaration in compliance with 37 CFR 1.497.

On 27 August 2007, applicants filed a supplemental declaration.

On 29 February 2003, the United States Designated/Elected Office (DO/EO/US) mailed a "Notification Of Acceptance" (Form PCT/DO/EO/903) identifying the date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) as 27 August 2007. Also on 29 February 2003, a filing receipt was issued that identified the "Filing Or 371(c) Date" as 27 August 2007.

On 28 September 2011, an "ISSUE NOTIFICATION" was mailed indicating that the application would issue as U.S. Patent No. 8039585 on 18 October 2011, and that the Patent Term Adjustment was 1003 days.

On 19 December 2011, applicants filed the present petition under 37 CFR 1.181.

### **DISCUSSION**

The present petition requests that the date under 35 U.S.C. 371(c) be corrected from 27 August 2007 to 09 August 2006, the date on which applicants filed the original executed declaration. Applicants also argue that, based on the corrected 35 U.S.C. 371(c) date, the Patent Term Adjustment should be increased. The present decision addresses only the issue of the appropriate 35 U.S.C. 371(c) date. The issue regarding Patent Term Adjustment will be considered in due course by the Office of Petitions.

A review of the application file confirms that applicants filed an executed declaration in compliance with 37 CFR 1.497 on 09 August 2006. This submission, coupled with applicants' filing of the present national stage application and payment of the basic national fee, satisfied the requirements of 35 U.S.C. 371(c)(1), (c)(2), and (c)(4). The correct date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) is therefore 09 August 2006, as asserted by applicants in the present petition.

### **CONCLUSION**

Applicants' petition under 37 CFR 1.181 with respect to the appropriate 35 U.S.C. 371(c) date is **GRANTED** to the following extent.

The date under 35 U.S.C. 371(c)(1), (c)(2) and (c)(4) for the present application is corrected to 09 August 2006. USPTO records will be updated accordingly.

The application is being referred to the Office of Petitions for consideration of applicants' additional request to recalculate the Patent Term Adjustment in light of the corrected 35 U.S.C. 371(c) date.

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